

Serial No. 10/036,790
Amdt. dated October 20, 2005
Reply to Office Action of August 16, 2005

Attomey Docket No. PF02259NA

REMARKS/ARGUMENTS

Claims 1 through 24 remain in this application, and claims 1, 11, 13 and 17 have been amended.

Claims 1 through 10, 12, 14, 15 and 17 through 24 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. US2002/0078151A1 to Wickam, et al. ("Wickam, et al. publication"). Also, claims 11, 13 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Wickam, et al. publication in view of U.S. Patent No. US6631186B1 to Adams, et al. ("Adams, et al. patent").

Independent claim 1 as amended provides, *inter alia*, "determining whether the target device is available for text messaging with the originating device based on the configuration data and the presence information". Likewise, independent claim 17 as amended provides, *inter alia*, a messaging proxy being effective to "determine whether the target device is available for text messaging with the originating device based on configuration data and presence information". Support for the above recitation of "presence information" is provided at page 9, line 16, through page 10, line 6, and page 13, lines 1 through 9, of the specification.

In contrast, the Wickam, et al. publication and the Adams, et al. patent describe call forwarding functions that manage routing of voice calls. The Wickam, et al. publication and the Adams, et al. patent do not describe or suggest determining whether a target device is available for text messaging *based on presence information*, as required by independent claims 1 and 17.

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Presence information is dynamic, whereas configuration information is static. By utilizing presence information in claims 1 and 17, dynamic or real-time information is considered in conjunction with the static configuration information. The Wickam, et al. publication and the Adams, et al. patent, on the other hand, describe a call forwarding function based merely on static information. Therefore, independent claims 1 and 17 as amended distinguish patentably from the Wickam, et al. publication, the Adams, et al. patent, and the suggested combination of these references.

It should be noted that the Wickam, et al. publication and the Adams, et al. patent do not describe or suggest determining whether a target device is available for text messaging, as required by independent claims 1 and 17, regardless of whether it is based on presence information. The Examiner's Remarks at page 16 of the above Office Action states "[t]he Wickam disclosure teaches within paragraph 45 that the calls can be forwarded to a device pre-selected by the user. One such device is a PDA. If a PDA can accept network data, such as the one in Wickam's design, it is well known in the art that the PDA can handle text messaging."

Applicants respectfully suggest that the Wickam, et al. publication not only fails to suggest call forwarding of text messages, but actually teaches away from it. Paragraph [0045] of the Wickam, et al. publication does not describe the communication forwarded to a PDA, and the immediately preceding paragraph (namely paragraph [0044]) describes audio files, image files digital video files that may be stored in the database referenced by paragraph [0045]. Although text is described by the Wickam, et al. publication at paragraphs [0019] and [0052], none of these references to text is described in relation to the call forwarding feature. Thus, the call forwarding

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feature of the Wickam, et al. publication may perhaps suggest forwarding audio files, image files and digital video files, but does not describe or suggest forwarding of text messages, as required by independent claims 1 and 17.

It should also be noted that paragraph [0042] of the Wickam, et al. publication describes a cell/PDA that has multimedia capabilities. Thus, the cell and PDA of the Wickam, et al. publication clearly has the capability to present audio, image and digital video files to a user. Therefore, independent claims 1 and 17 distinguish patentably from the Wickam, et al. publication, the Adams, et al. patent, and the suggested combination of these references.

Claims 2 through 16 and 18 through 24 depend from and include all limitations of independent claims 1 and 17 as amended. Therefore, claims 2 through 16 and 18 through 24 distinguish patentably from the Wickam, et al. publication, the Adams, et al. patent, and the suggested combination of these references for the reasons stated above for independent claims 1 and 17.

Claim 4 further distinguishes from the Wickam, et al. publication. In particular, claim 4 provides, *inter alia*, that the status information includes a location of the target device. Section 4 of the above Office Action states, in reference to the Wickam, et al. publication, "[i]nherently the location of the devices must also be known by the system since the call is forwarded to those devices". Applicants respectfully suggest that the Examiner is confusing "location" with "address". The system is able to forward a call to these devices, because the system knows their addresses. Knowledge of the location of the devices is not necessary when forwarding a call to a device address.

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Claims 10 and 24 further distinguish from the Wickam, et al. publication. In particular, claims 10 and 24 provide, *inter alia*, a forwarding list that identifies next devices in order of priority based on *a proximity of the next devices relative to one of either the originating device and the target device*. Sections 10 and 21 of the above Office Action state that the Wickam, et al. publication describes call forwarding to "the device most recently used by the user, hence allowing proximity based device selection". However, the Wickam, et al. publication describes call forwarding to a device within proximity to the last known location *of the user*. The Wickam, et al. publication does not describe or suggest priority based on proximity to another device, as required by claims 10 and 24. It should be noted that "most recently used" is not the same as "nearest". Proximity-based device selection allows selection of a device (relative to either the originating or target device) based on "location" information or attribute. In particular, it is known how far a particular device is located (from either the originating or target device) via the "location" information, and this information may be used in determining which device to forward the message.

Claim 14 further distinguishes from the Wickam, et al. publication. In particular, claim 14 provides, *inter alia*, receiving authorization from the particular next device before the target device adds the particular next device to the forwarding list. In contrast, paragraph [0045] of the Wickam, et al. publication describes a setup process that is completely managed by one party, i.e., the party implementing the call forwarding feature. The Wickam, et al. publication does not describe or suggest receiving authorization from a next device, as required by claim 14.

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Claims 11 and 13 as amended further distinguishes from the Wickam, et al. publication and the Adams, et al. patent. In particular, claim 11 as amended provides, *inter alia*, prohibiting, by the originating device, forwarding of messages, received from the originating device, to other devices; and claim 13 as amended provides, *inter alia*, identifying a mark by the originating device in the communication message indicating that the communication message may not be forwarded to other devices. As stated at sections 22 and 23 of the above Office Action, the Wickam, et al. publication does not disclose prohibiting the forwarding of messages. The Adams, et al. patent describes a call rejection mechanism by a receiving party, but does not describe or suggest prohibiting the forwarding of messages by the originating device, as required by claims 11 and 13 as amended.

In view of the above, reconsideration and withdrawal of the rejections of claims 1 through 24 are respectfully requested.

CONCLUSION

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. Also, no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

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It is submitted that the claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,
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